

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

**TUESDAY, THE FIFTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE**

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

and

THE HON'BLE MR JUSTICE P.SWAROOP REDDY

WRIT PETITION NO : 22774 of 2005

Between:

Union of India, Rep by Chief Engineer (Factory MES),
Hyderabad / Secunderabad.

..... PETITIONER

AND

- 1 M/s. R.Wadhupal & Sons, Rep by its Partner Sri Ashanand,
Civil Engineers & Contractors, 4 Jawahar Nagar, Prenderghast Road,
Secunderabad.
- 2 Sri A.Venku Reddy,
R/o. of C/o.Dr.A.Bhavani Reddy, Plot No.66, Road No.5, New Samathapuri
Colony, Nagole X Road, Hyderabad-500 035.

.....RESPONDENTS

The Court made the following:

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ORAL ORDER (per Sri DSRV,J)

Heard both sides.

The sole question involved in this writ petition is as to whether the arbitrator appointed by the learned designated Judge of this Court is competent to arbitrate the disputes or not.

This issue is no longer *res integra* by virtue of various judgments rendered by the Supreme Court and various High Courts earlier, particularly, in view of the judgment of the Supreme Court in ***Konkan Railways Corporation Limited and another Vs. Rani Constructions Private Limited*** wherein and whereby it was held that the order passed by the Chief Justice of a High Court would be an order passed in the administrative capacity.

But the above proposition was over ruled by the Supreme Court in ***M/s. S.B.P. & Co. Vs. M/s. Patel Engineering Ltd. and another*** wherein it was held that the order passed by the Chief Justice or the designated Judge of a High Court is to be treated as a judicial order and all objections shall be taken before the learned Chief Justice or the designated judge of the High Court. The said judgment of the Larger Bench of the apex Court would be operative with effect from 26-10-2005 and it was further held that all the orders passed thus far appointing arbitrators shall be adjudicated by the arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act'). Therefore, all appointments made by the Chief Justice or the designated Judge of the High Court shall have to be proceeded with in accordance with Section 16 of the Act.

In the instant case, the arbitrator had been appointed by the Hon'ble Chief

Justice by order dated 6-7-2005, obviously, prior to the date of judgment of the apex Court in S.B.P case (2nd supra) i.e. 26-10-2005 and as clarified by the said judgment, the matter being prior to the crucial date, has got to be proceeded with as contemplated under Section 16 of the Act. It is to be further noted from the above judgment that no writ petition lies against such an order passed by the Chief Justice or the designated judge.

In the light of the above settled legal position, the writ petition is disposed of at the stage of admission as not maintainable. No costs.

D.S.R.VARMA, J.

15-11-2005

P. SWAROOP REDDY, J.

Kvsn